

REMARKS

In the Office Action¹, the Examiner rejected claims 1-9 under 35 U.S.C. § 103(a) as unpatentable over U.S. Patent No. 6,807,285 to Iwamura ("*Iwamura*") in view of U.S. Patent No. 7,216,368 to Ishiguro ("*Ishiguro*").

Applicants respectfully traverse the rejection of claims 1-9 as allegedly unpatentable over *Iwamura* in view of *Ishiguro*.

Applicant submits that *Ishiguro* is disqualified as prior art under 35 U.S.C. § 103(a) by 35 U.S.C. § 103(c). The Examiner concedes that *Ishiguro* "constitutes prior art only under 35 U.S.C. § 102(e)" (Office Action at p. 2). In order to be disqualified as prior art under 35 U.S.C. § 103(c), the subject matter which would otherwise be prior art to the claimed invention and the claimed invention must be commonly owned, or subject to an obligation of assignment to a same person, at the time the claimed invention was made or be subject to a joint research agreement at the time the invention was made. See M.P.E.P. § 706.02(l)(2). According to the M.P.E.P., an applicant can establish common ownership of an application and a reference with a statement by the applicant or any attorney or agent of record to the effect that the application and the reference were, at the time of the invention was made, owned by, or subject to an obligation of assignment to, the same person. See *id.* Applicant therefore asserts that the present

¹ As Applicants' remarks with respect to the Examiner's rejections are sufficient to overcome these rejections, Applicants' silence as to certain requirements applicable to such rejections (e.g., whether a reference constitutes prior art, motivation to combine references) is not a concession by Applicants that such requirements have been met, and Applicants reserve the right to analyze and dispute such in the future.

application and *Ishiguro* (U.S. Patent No. 7,216,368) were, at the time of the invention was made, owned by, or subject to an obligation of assignment to, Sony Corporation.

Accordingly, Applicant requests that the Examiner withdraw the rejection of claims 1-9 under 35 U.S.C. § 103(a) because *Ishiguro* is disqualified as prior art.

Applicants respectfully request reconsideration of this application and the allowance of claims 1-9.

Please grant any extensions of time required to enter this response and charge any additional required fees to our deposit account 06-0916.

Respectfully submitted,

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